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Report of the Secretary-General on the implementation of the Darfur political process

I. Introduction

1. The present report is submitted pursuant to the statement by the President of the Security Council of 9 February 2011 (S/PRST/2011/3), in which the Council requested that I provide a report by the end of February 2011 on issues related to the Darfur political process, including an assessment of the enabling environment. I rely on the Council's understanding for the late issuance of the report, which is due to the ongoing discussion among stakeholders on the way forward and its impact on the peace process in Darfur.

2. The present report provides an overview of the background to the Darfur political process, the status of the negotiations taking place in Doha towards an inclusive and comprehensive peace agreement, the role of the Darfur political process in bringing peace to Darfur, the enabling environment for the process and my observations and recommendations on the way forward.

II. Background to the Darfur political process

3. It will be recalled that the initiative to hold the Darfur political process arose from the consultations conducted by the African Union High-level Panel on Darfur in the preparation of its October 2009 report on the quest for peace, justice and reconciliation in Darfur. After extensive consultations with Darfurian constituencies, the Panel concluded that the Darfur conflict could be resolved only through a renewed approach to peace that conformed to three principles, namely, that peace must be inclusive and must involve all stakeholders in Darfur; that peace must fully address the multiple dimensions and layers of the conflict and must include the establishment of peace at the local level; and that peace must be sensitive to the broader national context, taking into account the wider national challenges facing the Sudan. The United Nations fully agrees with these principles.

4. At its meeting held on 29 October 2009, the Peace and Security Council of the African Union endorsed the Panel's report and recommendations and decided that they would form the basis of African Union engagement in Darfur and of its interaction with its international partners. At the fourteenth ordinary session of the African Union Summit, held from 25 January to 2 February 2010, the African Union Heads of State and Government endorsed that decision.

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5. It will be recalled that in its press statement dated 21 December 2009, the Security Council welcomed the report, underlined its appreciation of the balanced and comprehensive nature of the recommendations to promote peace, justice and reconciliation in Darfur and the Sudan as a whole and looked forward to the implementation of a holistic approach to the problems facing the Sudan. The Council agreed that the causes and consequences of the conflict in Darfur had yet to be addressed and reiterated its support for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and the efforts of the United Nations-African Union Joint Chief Mediator, Djibril Bassolé, to promote a lasting political settlement of the conflict, and called upon the Government and other parties in the Sudan and the region to work with President Mbeki and his colleagues, in coordination with the international community as appropriate.

6. It will also be recalled that in its resolution 1935 (2010), the Security Council demanded that all parties to the conflict enter into talks under the mediation of the Joint Chief Mediator, with a view to completing an inclusive and comprehensive agreement in order to bring a stable and durable peace to the region. The Council also reaffirmed the importance of promoting the African Union/United Nations-led political process for Darfur and, in that regard, underlined the need for the systematic and sustained engagement of all Darfurian stakeholders, including newly elected officials, civil society, including women and women-led organizations, community groups and tribal leaders, in order to create a conducive environment for peace and security through constructive and open dialogue. The Council also welcomed the priority given to the continuing efforts of UNAMID to promote such engagement in support of and as a complement to the work of the Joint Chief Mediator and the African Union/United Nations-led political process for Darfur, and welcomed the work of the African Union High-level Implementation Panel for the Sudan in that regard.

7. At its meeting on 20 January 2011, the African Union Peace and Security Council reiterated the importance of the prompt commencement of the Darfur political process as an important mechanism in enabling the people of Darfur to participate fully in resolving their political conflicts. It underlined the need to create an environment that enabled, inter alia, the protection of the civil and political rights of participants so that they could exercise their views without fear of retribution; freedom of speech and assembly to permit open consultations; freedom of movement of participants and UNAMID; and proportional participation among Darfurians. The African Union Peace and Security Council also noted that any positive outcome of the Doha negotiations should form the basis of the Darfur political process, which would provide the required inclusive forum.

8. On 18 February 2011, the Joint Special Representative for UNAMID, Ibrahim Gambari, convened a retreat of the special envoys and representatives of Member States and United Nations partners in Nyala (Southern Darfur). The participants agreed that the Darfur political process would, through extensive and sustained engagement with the people of Darfur, enhance popular support for a peace agreement and better enable them to participate in the implementation of the outcomes of the Doha negotiations. They stressed that the establishment of an enabling environment for this process, which would include freedom of movement, assembly and expression for all participants, as well as freedom from harassment, arbitrary arrest, intimidation and interference by the Government or armed movements, would be essential for the credibility of the Darfur political process.

The participants also looked forward to further clarification on the process as it took shape, pending the outcome of the Doha process.

9. At its meeting on 8 April 2011, the African Union Peace and Security Council reviewed the situation in the Sudan in the light of a briefing by the Joint Special Representative, a presentation by former President Thabo Mbeki on behalf of the African Union High-level Implementation Panel and a statement by the Government of the Sudan. The Council called for the immediate commencement of the Darfur political process, with a proposed date of 1 May 2011, and requested UNAMID to make all necessary preparations for the process as a matter of priority, emphasizing that it should proceed concurrently with and as a complement to the negotiations in Doha.

10. The Council expressed its regret that the necessary coordination and harmonization among the Doha process, the Darfur political process and other African Union policies had not yet been achieved and requested the African Union Commission to issue instructions to the Joint Chief Mediator to consult with it and the African Union High-level Implementation Panel before taking any further decisions, especially regarding any extension of the Doha peace process. The Council further requested that the Joint Chief Mediator provide a comprehensive report on his activities and any future plans by 30 April 2011.

11. The Council noted that an expedited and coordinated conclusion to the Doha peace process was particularly important in view of the Sudanese national timetable, which included the independence of Southern Sudan on 9 July 2011, and the subsequent adoption of a permanent national constitution. It stressed that Darfur was an integral part of the Sudan and that it was essential to accelerate the peace process and the political process in Darfur so that the national political process was not delayed and the people of Darfur were not left behind.

12. The Council also welcomed the stated commitment of the Government of the Sudan to contribute to the creation of an enabling environment for the Darfur political process, including by suspending the state of emergency in Darfur. It called on all Darfurian communities, stakeholders, political parties and armed movements to participate in the process, which should enjoy the confidence of all the people of Darfur.

13. The Council encouraged the Government of the Sudan and other stakeholders to implement the recommendations of the report of the African Union High-level Panel on Darfur as necessary, in particular in the fields of justice, reconciliation and security. It also requested the Security Council to continue to strengthen its partnership with and support to the African Union, under the leadership of the African Union High-level Implementation Panel, in resolving the Sudan's political challenges in accordance with the fundamental principles of the United Nations and the African Union.

III. Status of the Darfur negotiations in Doha

14. The parties to the negotiations in Doha, namely the Government of the Sudan, the Justice and Equality Movement and the Liberation and Justice Movement, are currently discussing a set of draft texts that will serve as a framework for a final comprehensive agreement. The texts are based on the outcomes of negotiations,

talks and consultations, including with stakeholders, representatives of the larger civil society and international partners. They include six chapters covering wealth-sharing; compensation and the return of internally displaced persons and refugees; justice and reconciliation; human rights and fundamental freedoms; power-sharing; and security arrangements. All three parties have submitted their positions on these texts to the mediation team, with no substantive disagreement. They are now considering and discussing the final texts on power-sharing and security arrangements. The mediation team then plans to review the entire text in the light of the positions of the parties and, where there are divergences, recommend compromise language. The Joint Chief Mediator intends to hold a conference of all Darfur stakeholders (the "Darfur Stakeholders Conference") from 28 April to 3 May to discuss and jointly endorse the full text as a peace agreement/framework on Darfur. The conference will also provide an opportunity for the mediation team to seek international support for the implementation of the agreement.

15. In the meantime, the Liberation and Justice Movement and the Justice and Equality Movement have reaffirmed their commitment to the negotiation process and have noted their intent to work together on reaching a comprehensive settlement of the conflict. The Justice and Equality Movement has also indicated that it has reached out to the Sudan Liberation Army (SLA)-Abdul Wahid and SLA-Minni Minawi factions to join the process. When the Joint Special Representative met him on 21 March, Abdul Wahid stated that he would not join the peace negotiations in Doha or, for that matter, any peace talks, until his preconditions had been met. Nevertheless, five of Abdul Wahid's military commanders have indicated to the Joint Chief Mediator that they intend to meet with Mr. Wahid in the coming days in order to convince him to join the talks in Doha. If they fail to do so, they will proceed to Doha without him.

IV. Role of the Darfur political process in bringing peace to Darfur

16. As noted above, the Darfur political process was envisaged as a forum to enable the extensive and sustained engagement of the people of Darfur in the processes necessary to resolve the political conflict in Darfur. It was envisaged that the process would enhance popular support for the outcome of the negotiations in Doha and better enable the people of Darfur to participate in their implementation, which is essential for their success in the long term.

17. Issues related to the sequencing and complementarity of the Darfur political process and the Doha peace negotiations have yet to be fully clarified. As noted above, the special envoys and representatives of Member States who attended the 18 February retreat of the Joint Special Representative stated that they would welcome further clarification on the process as it took shape, pending the outcome of the Doha process. As reflected in its communiqué of 8 April 2011, the African Union Peace and Security Council is of the view that the Darfur political process should be implemented as a matter of priority, concurrently with and as a complement to the negotiations in Doha. While all agreed that the processes were complementary, they disagreed on whether they should be held sequentially or concurrently.

18. In the meantime, a Darfur political process secretariat has been established at the UNAMID headquarters to oversee implementation. The secretariat comprises representatives of many UNAMID sections, including political affairs, civil affairs, human rights, gender advisory, humanitarian liaison, Darfur-Darfur dialogue and consultation, legal affairs, rule of law, the joint mission analysis centre, security, the joint logistics operations centre and mission support, as well as staff of the African Union High-level Implementation Panel. The secretariat is responsible for strategic planning and management of the Darfur political process; overseeing its implementation by sector-level staff; and monitoring and maintaining an overview of substantive discussions during the process. The secretariat is responsible for, inter alia, analysing and reporting on the enabling environment. It reports directly to the Joint Special Representative and the chair of the African Union High-level Implementation Panel. Darfur political process sub-units are also being established at each sector office, in El Fasher, Nyala, El Geneina and Zalengei.

19. Participants in the process will include representatives of such relevant stakeholder groups as women, pastoralists, native administrations, internally displaced persons, refugees, civil society organizations, young people, religious leaders, political parties and elected representatives in the Darfur state legislatures and the National Assembly.

20. While there will also be an opportunity for the armed movements to participate, they (including the Justice and Equality Movement, SLA-Minni Minawi and SLA-Abdul Wahid) have expressed reservations, alleging that the process and its outcome would be unduly influenced by the Government. For its part, the Liberation and Justice Movement has expressed support for the Darfur political process, but only after the full conclusion of the negotiations and a signed agreement. The armed movements would nevertheless have a responsibility to demonstrate their commitment to peace in Darfur by, at a minimum, allowing all Darfurians, including internally displaced persons and refugees, to participate in the Darfur political process freely and without fear of harassment.

V. Enabling environment for the Darfur political process

A. Civil and political rights

21. As noted by the African Union Peace and Security Council, the Darfur political process must take place in an environment that guarantees its credibility and ensures the civil and political rights of participants so that they can exercise their views without fear of retribution; freedom of speech and assembly to permit open consultations; freedom of movement of participants and UNAMID; and proportional participation of Darfurians. At their 18 February meeting, the Joint Special Representative and special envoys further defined these conditions to include freedom from harassment, arbitrary arrest and intimidation and freedom from interference by the Government or armed movements.

22. The Government has indicated to the Joint Special Representative and the African Union High-level Implementation Panel that it fully agrees that such an enabling environment is necessary to guarantee the credibility of the Darfur political process. At his meeting with the Joint Special Representative on 21 March, the President of the Sudan confirmed that his Government intended to not only suspend

the emergency laws in Darfur but to abolish them altogether in order to facilitate the Darfur political process and other political efforts geared towards an inclusive and comprehensive political solution to the Darfur conflict.

23. The abrogation of emergency law will represent a significant step not only towards establishing an enabling environment for the Darfur political process, but ending the conflict in Darfur. By abrogating emergency law, the Government will commit to guaranteeing the civil and political rights of all the people of Darfur, not only those participating in the process. This means that the Government, especially its security, military and intelligence bodies, will have to take concrete action to guarantee that freedom and protection are extended to the civilian population in Darfur, in order to fully participate in the political process, without hindrance or limitations. UNAMID and the African Union High-level Implementation Panel intend to work with the Government towards the establishment of a mechanism to address violations of the enabling environment for the Darfur political process, including the conditions related to the political and civil rights of the participants as guaranteed through the abrogation of the emergency laws and free access for UNAMID and African Union High-level Implementation Panel personnel in carrying out their Darfur political process-related activities in Darfur.

B. Security situation

24. In addition to the protection of the civil and political rights of Darfur political process participants and other enabling conditions noted above, the security situation, including military activity and banditry, must also be taken into account to ensure that the process can be launched in conditions of safety and without interruption. It cannot be assumed that hostilities will be fully halted by the time the process is to commence. UNAMID is working to mitigate these risks by, among other things, calling upon the parties to cease hostilities, urging international actors to pressure the parties to cease fighting, and conducting robust security patrols in and around areas affected by conflict. The continued robust engagement of UNAMID and international partners will be required to ensure that the Government forces and the armed movements take responsibility for facilitating the security of the process and the safety of its participants.

25. It should be noted that since its establishment, UNAMID has conducted activities similar to those under the Darfur political process that will help to promote the process, including the facilitation of dialogue among Darfuri stakeholders. These activities include the UNAMID-led Darfur-Darfur Dialogue and Consultation and workshops on peace process issues attended by representatives from various stakeholder groups. UNAMID has often encountered restrictions in facilitating such activities; however, since the Government agreed, in a meeting with UNAMID and the African Union High-level Implementation Panel in December 2010, to facilitate the enabling conditions for the process, no such restrictions have been encountered. Recent activities include some 17 workshops and consultations on conflict resolution and reconciliation, justice and accountability, consultations within the Darfur-Darfur Dialogue and Consultation forum to re-establish permanent traditional (*ajaweed*) conflict resolution mechanisms, the outcomes of the second Doha civil society conference and issues related to women and conflict. These activities involved representatives from many of the same stakeholder groups that are expected to participate in the Darfur political process.

VI. Observations and recommendations

26. The Darfur peace negotiations, which started in Abéché, Chad, in September 2003, have gone on for too long. The war-affected people of Darfur — torn from their homes and families, living in makeshift dwellings, dependent on aid groups for sustenance, uprooted by renewed conflict and suffering the loss of loved ones — deserve more from the Government and the armed movements, which claim to represent their interests, than delays and round after round of peace negotiations despite the sustained efforts of the mediators. Responsibility for the failure or eventual success of the negotiations lies squarely with the armed movements and the Government.

27. Although the parties' responsibility to halt hostilities immediately and resolve the conflict is an important issue, the main subject of the present report is the enabling environment of the Darfur political process and its sequencing vis-à-vis the Doha peace negotiations.

28. I am concerned that the international community has shown signs of division around supporting the negotiation process in Doha and the inclination to begin the Darfur political process with or without a negotiated outcome. I understand the frustration of some regarding the negotiation process, as it has gone on for too long. I also understand the claim that the parties are not truly interested in a comprehensive and inclusive peace, since, thus far, they have failed to live up to their responsibility to the people of Darfur to create a chance for peace. I comprehend the view of others that conditions on the ground do not allow for a free and fair consultative process, given the state of emergency, arbitrary detentions, restrictions on the exercise of civil and political rights and ongoing conflict, including aerial bombardments.

29. The international community must speak with one voice and join together in supporting one road map towards peace in Darfur. I commend it for having supported the parties to the Comprehensive Peace Agreement, the United Nations Mission in the Sudan (UNMIS) and the African Union High-level Implementation Panel in holding the referendum. I call on the international community to take action in showing the same robust, dedicated support for the parties to the Darfur peace process and the facilitators in reaching a comprehensive and inclusive agreement as soon as possible.

30. In regard to the enabling environment, I commend the Government of the Sudan for its decision to abrogate the state of emergency. I call on the Government to lift emergency law immediately and to make every effort to ensure that it fully exercises its sovereign responsibility to protect and promote the civil and political rights of the people of Darfur, including the participants in the Darfur political process. I have full faith that it will live up to its commitment and call on it to work with UNAMID and the Panel in establishing a mechanism to address any violation of the rights of the participants in the process.

31. I take this opportunity to express my full agreement with the call of the African Union Peace and Security Council, in its 8 April communiqué to the Government of the Sudan and other stakeholders to implement the recommendations of the report of the African Union High-level Panel on Darfur, in particular in the fields of justice, reconciliation and security, and thereby strengthen the rule of law and the protection of human rights.

32. As noted in the present report, the enabling environment for the Darfur political process is related not only to the protection and promotion of the civil and political rights of its participants, but also to their safety and security. The current military situation in Darfur undermines trust and confidence in the Government and contributes to scepticism among the general population about its willingness to establish an enabling environment for the process. I call on the Government and the armed movements to halt all hostilities immediately, not only for the process, but also for the security of all the people of Darfur, and to promote the overall conditions for peace.

33. While I take note of the Government's positive action to facilitate Darfur political process-related activities in the past several months without restrictions, I must also take note of the continued restrictions on access by humanitarian and United Nations personnel in Darfur. Recognizing that hostilities may not be halted by the commencement of the Darfur political process, the Government and the armed movements must nevertheless enable it by ensuring the full freedom of movement of UNAMID, African Union High-level Implementation Panel and humanitarian personnel throughout the entire process. I remind the Government and the armed movements that, ideally, freedom of movement should remain a permanent condition of United Nations and humanitarian work in Darfur.

34. I also call on the armed movements to place their trust in the United Nations and the African Union to mediate a comprehensive and inclusive agreement in Doha and to work towards putting in place the enabling conditions for the Darfur political process described in this report. I am aware that the Justice and Equality Movement and the Liberation and Justice Movement are currently in Doha and call on them and the Government to finalize a peace agreement in good time. I call on Abdul Wahid to join the process and on Minni Minawi to reconcile with the Government and rejoin the search for peace.

35. In addition to the enabling environment of the Darfur political process, the question of its complementarity and sequencing vis-à-vis the peace negotiations in Doha remains outstanding. These are not incompatible processes. It is well known that comprehensive negotiations with the armed movements must take place through a fully impartial mediation process. Since the parties have yet to give up the military option, these negotiations must take place outside of Darfur. I commend the significant support provided by the Government of Qatar in that regard. It is also well known that, for peace to be sustained in the long term, the people of Darfur must support the agreements, take part in the process and be fully involved in the implementation of its outcomes. In addition to the Darfur Stakeholders Conference, the Darfur political process provides an opportunity for the broad-based and sustained involvement of the people of Darfur in the peace process.

36. I agree with the view expressed by the African Union Peace and Security Council that the Darfur conflict has to be addressed in the national context. I underline the necessity of resolving the conflict so that, like all Sudanese, the people of Darfur may be fully involved in building a solid and pluralist national political dispensation as the country moves forward in the post-Comprehensive Peace Agreement interim period.

37. On the issue of sequencing, I maintain that a timely outcome of the negotiations in Doha should form the basis of the Darfur political process and that the process should provide a forum to build and deepen indigenous support for the

Doha outcome, enhance it as necessary and create momentum for its implementation. At the same time, I understand the need to find a resolution to the conflict in Darfur within a reasonable time frame. I therefore call on all concerned, in particular the Government of the Sudan and the armed movements, with the support of international partners, to make every effort to ensure that the Darfur Stakeholders Conference, which will be held in Doha from 28 April to 3 May, is successful and that it results in an agreement/framework for Darfur.

38. I hope and expect that, in the meantime, the Government and the armed movements will take the decisions and actions necessary to establish the conditions for the enabling environment for the Darfur political process as set out in the present report.

39. To that end, I have requested the Joint Special Representative for UNAMID to provide full support for the Darfur Stakeholders Conference, while continuing to work with the African Union High-level Implementation Panel and the Government towards the creation of the enabling environment for the Darfur political process and to initiate the necessary consultations on the ground with concerned stakeholders on the commencement of the process, pending the outcome of the Doha negotiations.

40. Flexibility to take advantage of opportunities and avoid pitfalls is required in any peace process. With this in mind, I have instructed my Under-Secretary-General for Peacekeeping Operations, Alain Le Roy, to maintain close contact with the Joint Special Representative, the Joint Chief Mediator, the African Union High-level Implementation Panel and the African Union in the implementation of the above steps and to recommend to me any needed adjustments. I will keep the Security Council closely advised of progress and will recommend any changes in the way forward that may be necessary. In the meantime, I encourage the Security Council to provide its full support to the approach outlined in the present report and to make every effort to bring the international community together to speak with one voice and provide full support to the parties, including the Government and the armed movements, to realize a negotiated peace in Darfur through the Doha process in the short term, as well as to support the involvement of the people of Darfur in the political process through the Darfur political process in the medium term, and to support the full implementation of any and all agreements towards sustainable peace in the long term.

41. In closing, I reiterate my full support for the work of the Joint Chief Mediator, Djibril Bassolé, and commend him and his team for their tireless efforts to facilitate a negotiated, comprehensive and inclusive agreement on the conflict in Darfur. I thank the Government of Qatar once again for its unfailing support to this process. I thank the Joint Special Representative for UNAMID, Ibrahim Gambari, and all the women and men of UNAMID for their commitment and sacrifice, all too often under life-threatening conditions, to bring peace to the people of Darfur. I have encouraged the Joint Special Representative and the Joint Chief Mediator to continue to work in a fully transparent and consultative manner with the African Union High-level Implementation Panel on these matters. I also thank and commend the Panel and its chairperson, former President Thabo Mbeki, for its work and achievements in helping the Sudanese people to achieve peace.